IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL MISC. APPEAL No. 386 of 2005

SMT. MANGI BAI
V/S
KARAN SINGH & ORS

Mr. MANOJ RATHORE, for the appellant / petitioner

Date of Order : 7.4.2005

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the appellant.

The learned Tribunal has dismissed the claim on the ground that accident occurred on account of negligent driving of the deceased himself. Assailing the finding, it is contended that in the circumstances of the case, it cannot be said that deceased was solely responsible for accident, and at best, it was a case of contributory negligence of the bus driver.

I have considered the submissions, and have considered the site plan, shown to me, and the statement of eye witness Pooran Mal, which was read to me. According to the site plan, deceased was going from West to East side, while jeep was coming from East to West side. In such circumstances, correct side for the motor cyclist would be in the North of the road, while for the jeep, it would be in the South of the road. The site plan shows that accident occurred at the point “X”, which appears Southwards the road. Thus, it is clear that it was motor cyclist, who went on wrong side of the road, though PW-2 Pooran Mal has deposed that accident occurred in the mid of road, but then he has deposed that he does not understand the map, and that the papers prepared by police are correct. Thus, if the site plan is taken to be correct, then it is clear that motor cyclist went on the wrong side, and accident occurred. For the sake of arguments, even if the version of PW-2 Pooran Mal is accepted, that the accident occurred in the mid of the road, still the deceased's going in the mid of road leaving his

own correct side, itself was an act of negligence. He was supposed to drive along his side only, when no circumstances have been brought on record, on account of which, he was required to go to the mid of road, without any element of negligence.

In that view of the matter, I do not find any force in the submission, that there was any contributory negligence on the part of jeep driver either. Thus, the appeal has no force, and is hereby dismissed summarily.

(N P GUPTA),J.

/Srawat/